



SOLOMON ISLANDS GOVERNMENT

# **An Auditor-General's Insights into Corruption in Solomon Islands Government**

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**Solomon Islands Office of the Auditor General**

Mr Speaker

Pursuant to section 39 (1) of the Public Finance and Audit Act [Cap 120] I submit this Report on common themes and concerns arising from the outcome of my recent audits which give an insight into corruption in the Solomon Islands Government for laying before the parliament.

The report provides a summary of ten separate special audits undertaken and previously tabled in Parliament.

A handwritten signature in purple ink, appearing to read 'F. A. Fatai'.

Floyd Augustine Fatai  
Auditor General

31 October 2007

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## **1.00 EXECUTIVE SUMMARY.**

### **1.1 Background**

During 2005 and 2006 I tabled ten special audit reports with the Solomon Islands Parliament. Together, the audit reports provide an important body of material for understanding the conditions that facilitate maladministration and corrupt behaviour. This report documents patterns of maladministration and corruption across government through highlighting systemic weaknesses identified within the Special Audits and gives consideration to possible remedial measures for implementation. These Special Audit Reports covered the period from 2001 to 2004, although where records were available these audits were extended to cover 2000.

### **1.2 Costs of Failure.**

Due to the systemic failure of record keeping it is impossible to identify an exact cost, pertinent to the scope of the special audits. However, through the Special Audits we can identify an overall \$SBD figure which highlights the costs of maladministration and corruption to the Solomon Islands. Albeit this figure is based upon conservative estimates and sampling methodologies only and importantly, does not begin to explore the broader damage in \$SBD figures to economic productivity and social development in the Solomon Islands. Amounts foregone in lost revenue or corruptly or fraudulently disbursed as identified in the Special Audits were some \$433 million. Whilst this figure is spread over a multi-year period, to give some proportion, this figure is greater than the Country's annual GDP.<sup>1</sup>

### **1.3 Common Issues Identified.**

A number of issues have been identified as recurring causes of failure:

- Widespread non-compliance with guiding legislation, financial instructions and general orders;
- Serious breakdowns in financial management and accounting systems and procedural controls;
- General lack of adequate and proper records maintenance;
- Officials using positions of influence to assist associates to receive benefits;
- Millions of dollars of revenue lost;
- Conflicts of interest not declared;
- Delays in acquittals;

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<sup>1</sup> Based upon an estimated GDP figure for 2006 of \$322m SBD

- Lack of action for recovery of overpayments;
- Lack of action to pursue suspected criminal activity;
- Lack of discipline of public officers by responsible authorities;
- Lack of action by departments to address weaknesses identified in the audits;
- Lack of overall monitoring and oversight by senior management;
- Officials acting outside authority or acting without appropriate authority;
- Proliferation of unauthorised Government accounts and financial transactions occurring outside of authorised processes;
- Serious shortcomings around asset management and procurement;
- Lack of division of responsibility in key institutional functions and controls;
- Lack of proper management monitoring and control over contracts;
- Procedural weaknesses relating to payroll management; and
- Management override of internal controls outlined in Financial Instructions and General Orders.

#### **1.4 Categorisation of Weaknesses.**

Generally speaking, these weaknesses can be grouped under three important themes. Whilst these themes are common across the special audits the weaknesses do not fit neatly within each theme, but rather often cut across the themes. As such, these themes are considerably inter-related and in practice reinforce each other.

Firstly, a number of these weaknesses stem from the breadth and depth of *opportunity* across government which permits maladministration and corrupt behaviour to occur. For instance, weak internal controls such as weak procedures, lack of internal separation of responsibilities, and widespread non-compliance with financial instructions. Strengthening these controls to remove opportunities is a critical component to address such weaknesses.

Secondly, a number of these weaknesses relate to the *incentives* which encourage rather than discourage maladministration and corruption. For instance, the general lack of government response such as lack of action for recovery of overpayments, lack of action to pursue suspected criminal activity, and lack of action by Ministries to address weaknesses. Changing the incentives framework via reinforcing positive incentives (ie. rewards) and implementing negative incentives (ie. penalties) is equally important to changing corrupt behaviour.

Third, a number of these weaknesses relate to the broader enabling environment – the lack of *demand* for good governance – which ensures ongoing transparency, accountability and integrity of government. For instance, lack of broad government response and the loss of millions of dollars in revenue give rise to broader questions of why has this occurred, and what is being done to address these weaknesses, collect lost revenue and punish the perpetrators. Without society demanding more of government – in how it administers public funds and in whether laws are being effectively enforced – then there is little incentive for government to improve its standards in turn creating further opportunities for maladministration and corruption to flourish.

In a society like Solomon Islands where there exist extended family relationships and therefore support, there is bound to be financial pressure in addition to other factors like inflation, inadequate remuneration etc. These would create an environment which is conducive to fraud and corruption as public officers would seek rationalisations to justify their actions. The problem becomes more difficult where there is a lack of discipline.

Finally, it must be noted that considerable work has been undertaken already to enhance aspects of government accountability and to address maladministration and corruption, relevant to the findings of the special audits. In particular in recent times the Public Accounts Committee (PAC) has examined all of the recent seven Special Audit Reports and has reinforced the need for an Action Plan which outlines Ministry response to the Auditor General's recommendations. The PAC has introduced a requirement for quarterly updates to the Committee and OAG to enable progress to be monitored.

Thus, the recommendations outlined in this summary report are intended to complement and strengthen existing activities to create greater momentum and leverage for addressing maladministration and corruption.

## **1.5 Proposed Responses.**

This report asserts a three pronged approach to addressing these findings:

- Minimising opportunities for maladministration and corruption to occur;
- Changing incentives to discourage maladministration and corruption; and
- Increasing public demand for ensuring the ongoing transparency, accountability and integrity of government.

Within each of these initiatives a number of relevant activities are identified.

## **1.6 Recommendations**

The following recommendations are made to provide a whole of government response to address corruption in the Solomon Islands Government:

1. Ministries develop detailed action plans to implement the findings of the OAG, in order to strengthen financial controls and instructions, strengthen internal procedures and processes, strengthen departmental transparency and accountability mechanisms, strengthen record keeping.
2. Assistance be provided to support Departments develop and implement departmental responses to the Special Audits.
3. Assistance be given to support Ministries develop internal audit capabilities.
4. Training programmes and training materials provided to public servants be reviewed to identify avenues for reinforcing accountability across government and that this review also assess the potential for relevant accountability institutions to support such training.
5. Specialist training be provided to the Public Accounts Committee members and senior public officials in relation to parliamentary committee hearings. This training should address issues including the role of committees, the committee process, questioning and providing testimony, transparency and the public record.
6. The Leadership Code Commission advance its role and enhance its capacity to act as an ethics adviser to Ministers, Permanent Secretaries and relevant public officials.
7. Initiate a review to identify limitations on ensuring successful investigation and prosecution of corruption and related offences arising from the Special Audits.
8. Urgent consideration be given to a suitable amendment to the Penal Code to ensure official corruption provisions are consistent with other jurisdictions.
9. An inter-agency task force be established incorporating resources from the Participating Police Force Corruption Targeting Team, the Leadership Code Commission, the Office of the Auditor General, the Inland Revenue Division and the Director of Public Prosecutions in order to investigate and prosecute identified breaches of the law.
10. As part of the Ministry responses to the Special Audits, Ministries, working in consultation with the inter-agency task force outline which identified losses are not recoverable and why.
11. Sittings and hearings of the PAC be advertised through the media prior to their occurrence, to promote public awareness and public confidence.
12. When the PAC submits a report to Parliament, the PAC should also issue a media release highlighting the new report and the PAC consider holding a public forum, in partnership with Transparency Solomon Islands, to discuss the findings and responses.

13. A study be conducted to assess the viability and requirements for introducing Freedom of Information legislation into Solomon Islands.
14. A study be conducted to assess the viability and requirements for introducing a civil remedies regime into the Solomon Islands.
15. Conduct a civic education program to educate all Solomon Islanders about the accountability processes and the role of elected officials and public officers in that process.

## **2.0 DETAILED ANALYSIS**

### **2.1 BACKGROUND**

During 2005 and 2006 I tabled ten special audit reports in Parliament. The reports were:

- Civil Aviation Division of the Ministry of Infrastructure and Development;
- Department of Fisheries and Marine Resources;
- Department of Forestry, Environment and Conservation;
- Export Import (EXIM) Bank Loan and Other Ethnic Related Disbursements;
- Immigration Division of the Ministry of Foreign Affairs, Commerce and Tourism;
- Land Registration Procedures and Kukum Subdivision within the Department of Lands and Survey, Ministry of Agriculture and Lands;
- Ministry of Education and Human Resources Development, Tertiary Scholarships Program;
- National Referral Hospital of the Ministry of Health and Medical Services;
- Ministry of Health and Medical Services;
- Treasury Division Central Payroll, Ministry of Finance, National Reform and Planning.

Taken together, the audit reports provide an important body of material for understanding the conditions that facilitate both maladministration and corrupt conduct, both petty and substantial. Importantly, the audits include detailed recommendations to help remedy the defects in administration identified, many of which involve principles of good public administration that apply generally across government.

This report was prepared to focus attention at the whole of government level to recurring themes and common problems identified at Ministry level which need to have Government commitment to ensure an appropriate holistic response. An analysis of the ten special audit reports referred to the Parliament in 2005 and 2006 by OAG was undertaken to document patterns of maladministration and corrupt conduct which contribute to an enabling environment for corruption and, drawing on this evidence, consider possible remedial measures for implementation across government.

## 2.2 MAIN ISSUES

Due to the systemic failure of documentation and record systems, it is impossible to identify the exact costs to the people of Solomon Islands of the failures identified by OAG in these reports. A summary of the main failings identified in each of the above referenced Reports follows and an indication of the approximate costs and losses identified are provided for each Report. It should also be noted that some of these figures are based upon samples only, and thus may be a conservative reflection on the broader cost of failures within these departments to Solomon Islands Government. Notwithstanding the collective implications of the findings identified result in an impact of some \$433 million.

**Civil Aviation Division of the Ministry of Infrastructure and Development (\$18.7m)** - Many serious shortcomings were identified in the procedures and practices as well as deficiencies in internal controls. Many critical records were not available to OAG and this has led to a lack of transparency and accountability in a number of key areas within the Civil Aviation Division. Poor management of Trust accounts, irregularities in financial management and controls, created the opportunities for fraud, misconduct, and corruption.

**Department of Fisheries and Marine Resources (\$70.4m)** - Many serious shortcomings including breaches in the law and the Tuna Management Plan. Non-compliance with the Public Finance and Audit Act, Financial Instructions and General Orders. Breakdowns in procedures and practices as well as major deficiencies in internal controls have left the Department of Fisheries and Marine Resources open to fraud and corruption. Inadequate processes for collection of fishing licence fees resulted in major shortfalls in revenue.

**Department of Forestry, Environment and Conservation (\$48.7m)** - Many serious shortcomings were noted in the procedures and practices as well as deficiencies in internal controls were identified. There is no doubt that the poor management and administration, compounded by the lack of accountability and transparency of granting timber exemptions, has resulted in a significant amount of export duty being forgone which otherwise should not have been exempted. These along with outdated legislation have had a significant impact on the government revenue stream. The royalty agreements clearly need to be better managed, including the maintenance of proper accounting records for each agreement, proper monitoring of logging companies activities to ensure that any breaches with the agreements are properly dealt with by the Department. These factors as well as poor supervision, non-compliance with the Public Finance and Audit Act, Financial Instructions and General Orders, breakdown in the procedures and practices and major deficiencies in internal controls, contributed to the fact that royalty payments due to the Government were not fully captured. These deficiencies have left the Department of Forestry, Environment and Conservation open to fraud and corruption.

**Export Import (EXIM) Bank Loan and Other Ethnic Related Disbursements (\$281.7m)** - Gross mismanagement of resources, failure of oversight, verification and of adherence to financial instructions and controls, and illegalities leading to fraud, theft, corruption, and excessive overpayments. In addition negligence by the Ministry of Finance in failing to instigate the necessary monitoring of controls. I am very concerned that no prompt positive action has been taken to address the many issues raised in the report to date.

**Immigration Division of the Ministry of Foreign Affairs, Commerce and Tourism (\$5.8m)** - Serious breakdowns in critical management and control systems and procedures in the administration of the Passport Act 1978 and the Passport (Amendment) Act 1998, which has left Immigration open to fraud and corruption. Furthermore, there have been significant leakages of revenue due to various reasons, including the waiving of conversion fees, which do not appear to fall with Section 14 (1) of the Regulations. Failure to apply procedures led to major amounts of revenue foregone. There were fraudulent practices and corruption in citizenship and passport issue. There was loss of passport stock and lack of control over cancelled passports. Suspicious immigration from Guangdong Province, China facilitated by misconduct by officials. Failure to protect SI borders from illegal entry.

**Land Registration Procedures and Kukum Subdivision within the Department of Lands and Survey, Ministry of Agriculture and Lands (\$0.5m)** - Many critical systems' failures in the land registration procedures which has led to the poor management and administration, lack of accountability and transparency in the allocation and registering of land transfers. Decisions being made outside of the authority and power of ministry officials, for instance varying the Valuer-General's initial assessment of rental and valuation fees as well as the premium in the letter of offer. Furthermore, the direct allocation of land rather than through an open tender process which would be more transparent, opens opportunities for abuse of the system and a significant loss of revenue to the Government. In summary, the deficiencies noted in the land registration procedures have left the allocation and registration of land open to fraud and abuse. This situation is highlighted by the number of serious irregularities noted during the audit of the Kukum Land Subdivision. Although this represents only a small sample of the overall land transactions within the Lands Department this situation exemplifies the inadequate state of procedures within the Ministry.

**Ministry of Education and Human Resources Development, Tertiary Scholarships Program (\$0.2m)** - Gross failure of budgetary procedures. No registry or systems in place to record or track scholarship holders. The maintenance of records for scholarship holders is poor and in many instances OAG was unable to verify the legitimacy of a wide range of payments such as allowances, airfares and other expenses. In addition, OAG identified a number of overpayments to various parties due to poor administration and a lack of guiding policies.

No selection criteria universally applied, and in many cases decisions are made by government officials outside the normal National Training Committee approach and with Ministerial favouritism applied, thus depriving opportunities for scholarships to other worthy students.

**National Referral Hospital of the Ministry of Health and Medical Services (\$0.3m)** - Breaches of Financial Instructions; failure of stores management and purchase; poor assets management; major shortcomings in control of revenue collections with risk for theft or misappropriation; fraud in catering services; failure of management of patient travel including funds; and other issues relating to facilities and services.

**Ministry of Health and Medical Services (\$0.5m)** - Serious breakdowns in critical management and accounting systems and procedures within the Ministry were revealed. In particular there were shortcomings in the financial controls operating over the Health Sector Trust Account and its 25 operating accounts which have led to OAG identifying suspected fraud. It is considered that the establishment and the operations of this Account is outside the law in that it does not comply with Section 100 (1) of the Constitution and that millions of dollars spent on Health Services are not being reflected in the Government Accounts. Purchasing practices and procedures are poor in that financial delegations are out of date, inappropriate practices have been undertaken in obtaining and evaluating quotations, no documented evaluation of suppliers, no evidence of ensuring goods and services have been received prior to payment.

**Treasury Division Central Payroll, Ministry of Finance, National Reform and Planning (\$7.1m)** - Many serious shortcomings in the procedures and practices as well as deficiencies in internal controls were revealed. There is no doubt that the lack of controls surrounding payroll, or the lack of adherence to them, has led to the existence of non bona fide employees on the SIG payroll. As a result of poor management and lack of controls, many critical records have gone missing thus subjecting the Central Payroll System to abuse and leakages of public monies. In particular lack of effective termination procedures resulting in payments being made to officers who are no longer employed by the Government, duplicate payments, excessive overtime claims, appointment procedures risking 'ghosts' on the payroll. Lack of input and output controls between the Government agencies and the central payroll operations and the non-compliance with the Financial Instructions. One of the major controls over the years has been the issuing of TPF numbers but this process has not been properly maintained with the effect that it has had a significant impact on the accuracy of the payroll, contributions to the National Provident Fund and other aspects of the payroll. Absence of proper controls and oversight also provides opportunity for corruption and fraud.

## 2.3 COMMON ISSUES IDENTIFIED IN REPORTS

In order to address systemic weaknesses of maladministration and corruption, this analysis must focus on the underlying drivers which enable such behaviour to occur. The following issues identified by the OAG are considered to be recurring causes of failure:

- Widespread non compliance with the Public Finance and Audit Act, Financial Instructions and General Orders
- Serious breakdowns in critical financial management and accounting systems and procedural controls
- General lack of adequate and proper records maintenance
- Officials using positions of influence to assist family and friends to gain from their positions
- Millions of dollars of revenue lost through poor management, corruption and fraud
- Conflicts of interest not declared – eg support for *wantoks*.
- Uncollected revenue due to poor operating systems and controls with inadequate monitoring
- Delays in acquittal of Imprest Advances
- Inappropriate action for recovery of overpayments
- Lack of action by Authorities to pursue suspected criminal activity and lack of response by departments to address shortcomings identified through the audits
- Lack of overall monitoring by senior management to enable issues to be addressed internally
- Officials acting either outside of their authority or acting without the appropriate authority
- Proliferation of unauthorized Government bank accounts and financial transactions occurring outside of the authorized process
- Serious shortcomings around asset management and procurement of goods
- Lack of separation of responsibility in key institutional functions and controls
- Procedural weaknesses relating to government payroll management including ghost workers
- Management override of internal controls outlined in Financial Instructions and General Orders.

Generally speaking, these weaknesses can be broadly grouped under three important themes.

Firstly, a number of these weaknesses stem from the breadth and depth of *opportunity* across government which permits maladministration and corrupt behaviour to occur. For instance, a range of weak internal controls – such as weak procedures relating to government payroll management, lack of internal separation of responsibilities, shortcomings around asset management and procurement of goods, and widespread non-compliance with financial instructions – all provide opportunities for maladministration and corruption to occur. Therefore strengthening these controls in order to remove the opportunities is a critical component to address these weaknesses.

Secondly, a number of these weaknesses relate to the *incentives* which encourage maladministration and corruption rather than discouraging such behaviour. For instance, a lack of Government response – such as inappropriate action for recovery of overpayments, lack of action to pursue suspected criminal activity, lack of governmental/departmental remedial action to address shortcomings, lack of senior management monitoring to address issues internally – all create incentives to encourage such behaviour rather than discourage. Thus, changing the incentives framework via reinforcing positive incentives (rewards) and implementing negative incentives (penalties) is also equally important.

The final aspect relates to the broader enabling environment – the lack of *demand* for good governance which ensures the ongoing transparency, accountability and integrity of government. For instance, the millions of dollars in lost government revenue and the lack of broad government response gives rise to questions – such as why has this been allowed to occur, why hasn't more been done to address these weaknesses, collect the lost revenue and punish the perpetrators. Without society demanding more of government, in how it administers public funds and in whether laws are being effectively enforced – then there is little incentive for government to improve its standards. Thus, if government does not have to respond to the public then the accountability, transparency and integrity of government will diminish as opportunities are created across government for maladministration and corruption to occur.

As we can see from above, these themes are quite inter-related and reinforce each other. In addition, the recurring causes of failure, as outlined, does not fit neatly within each of these three themes, but rather often cut across the themes of incentives, opportunities and demand. As a result, any strategy to address these weaknesses must consider a multi-layered approach rather than any single solution.

Finally, it should also be noted that a considerable amount of good work has been undertaken already to enhance government accountability and address maladministration and corruption –

- the strengthening of the Office of the Auditor General; the production of 10 special audit reports (for the first time in over 2 decades);
- the strengthening of Parliament and the parliamentary committee system;
- public hearings undertaken by the Public Accounts Committee;
- six reports handed down to Parliament and produced by the Public Accounts Committee in response to the seven special audit reports Tabled in October 2006 and reviewed by the Committee hearing evidence from Ministry Officials (for the first time since independence);
- the strengthening of the Leadership Code Commission;
- the establishment of a Corruption Targeting Team (CTT) within the RSIPF and RAMSI Participating Police Force; and
- the strengthening of the judiciary to prosecute corruption and related crimes; work plans and working groups established by some departments to respond to and address the weaknesses identified within the audit reports.

All of these developments are having positive long-term impact on reducing maladministration and corruption in Solomon Islands. Thus, the recommendations outlined below are intended to complement and strengthen the existing activities, in order to create greater momentum and leverage for addressing maladministration and corruption going forward.

Accordingly, I propose a three pronged approach in order to further address the findings of the OAG Special Audits. These relate to:

- Removing opportunities for maladministration and corruption to occur;
- Changing incentives to discourage maladministration and corruption; and
- Increasing public demand for ensuring the ongoing transparency, accountability and integrity of government.

Within each of these initiatives, a number of activities are recommended.

Further I support the need for a review of the legislative framework underpinning public financial management, the provision of appropriate training through the Institute of Public Administration and Management and the enforceability of the disciplinary mechanisms.

## 2.4 PROPOSALS AND RECOMMENDATIONS

### (a) Minimising Opportunities

It is clear that there needs to be a considerable review of internal departmental structures, systems and processes in order to minimise maladministration and corruption within the Solomon Islands public service. In addition, there is a strong need for heightened awareness and understanding of accountability, its requirements and tools, within the SI public service, including at the most senior levels of management. Analysis of the Special Audit Reports and subsequent discussion indicate that:

- The provisions of the Public Finance and Audit Act, the Financial Instructions, and the General Orders were either ignored, were often unknown, or disregarded.
- There were limited financial management reporting or monitoring systems in place to enable senior management to be adequately informed on budgets, revenues and expenditures.
- Staff exercising financial authority were often not qualified, were not authorised to undertake their functions, had conflicting responsibilities, or had no delegations for the tasks they were carrying out.
- Moneys being paid into various Accounts instead of being paid into the Consolidated Revenue.
- Receipt of services or goods being purchased were not being verified, and expenditure not being monitored.
- Non-existent internal auditing by departments.
- Control of accounts are not centralised.
- No systems for reporting of suspect activity or conflicts of interest within departments.
- Major deficiencies in payroll and staff reporting and verification systems.
- Common instances of single – often senior – individuals having power to direct expenditure without accountability or transparency systems (ie. checks and balances) in place.
- Lack of secure premises for stock, records, etc, and lack of stocktaking or of registers of assets.

- In cases where the Public Finance and Audit Act, Financial Instructions, the General Orders and other prevailing legislation and regulation may be complied with, there is little regard for economy and avoidance of waste.

### ***Proposed Responses***

As a first step, a number of Permanent Secretaries whose Department had been subject to Special Audits identified the need for developing departmental responses into my findings. As a result, assistance may be required to help guide senior officials in translating audit findings into detailed departmental workplans, review internal systems and structures and processes, develop appropriate management systems to monitor implementation as well as develop new internal processes and controls to ensure that the outcomes identified by the OAG are not repeated.

Recently the PAC has concluded its hearings into the last seven of my Reports and confirmed its expectation that a detailed Action Plan would be prepared by each Ministry which shows the action proposed and timeframe for remedial action by the Ministry. This has been requested by the PAC with a quarterly update also required to be provided to both the Committee and the Auditor General.

#### **Recommendation 1 –**

Ministries develop detailed action plans to implement the findings of the OAG, in order to strengthen financial controls and instructions, strengthen internal procedures and processes, strengthen departmental transparency and accountability mechanisms, strengthen record keeping.

#### **Recommendation 2 –**

Assistance be provided to support Ministries develop and implement departmental responses to the Special Audits.

In addition, it is apparent that Ministries require an effective internal audit capacity in order to review on an ongoing basis internal operations and identify anomalies. This capacity would complement the role of the OAG rather than replace it. The OAG is also well placed to support the development of these capacities within departments.

The lack of suitably qualified people to undertake these tasks needs to be addressed. Working with the University of the South Pacific and the SICHE to develop appropriate training programmes may be one useful path to follow.

#### **Recommendation 3 –**

Assistance be given to support Ministries develop internal audit capabilities.

It is clear that the development of relevant training courses and training materials for public officials is vital. In particular, it is evident that training through basic induction courses in addition to specialist courses on accountability for **all** new public service staff is critical, including training on:

- Ethics, the importance of accountability in government and the role of the accountability institutions;
- the basic aspects of the Public Finance and Audit Act, the Financial Instructions and the General Order– including providing access to these for every officer;
- relevant public service regulations, including codes of conduct and disciplinary procedures; and
- record-keeping, archives and administrative practices.

Whilst the Institute for Public Administration and Management (IPAM) is the lead agency for training public officials, a number of departments also have an important role to play in training and raising the awareness and skill-set of public officials with regards to accountability.

**Recommendation 4 –**

Training programmes and training materials provided to public servants be reviewed to identify avenues for reinforcing accountability across government and that this review also assess the potential for relevant accountability institutions to support such training.

**(b) Changing Incentives**

It is apparent from the analysis of special audits and the various consultations undertaken, that much action is required from the Solomon Islands Government to change the enabling environment for maladministration and corruption. The broad Government response must ensure both positive and negative incentives to facilitate these changes.

In the Special Audit Reports, I documented many instances of alleged fraud or corruption, or circumstances where financial and management control failures may have led to fraud or corruption.

While there have been instances when miscreants have been dismissed from their positions, it is apparent that few have been prosecuted or referred to the Leadership Code Commission thus far. It is further evident that little has been done to recover the millions of dollars stolen, fraudulently or corruptly obtained, or foregone.

These failures have very significant ramifications for not just the prevention of corruption but for the entire governance system, particularly that of government accountability and the rule of law. For the OAG to undertake extensive and detailed audits can be seen as a great success; but if follow-up action is not taken to remedy the failings identified and bring miscreants to book will make our efforts and dedication appear hollow.

***Proposed Responses***

Whilst indicated above, in order to address the shortcomings identified by the OAG, Ministries will be required to develop departmental responses. The Public Accounts Committee (PAC) has indeed requested departments to provide written responses to the PAC, as a part of the PAC's deliberations on the special audits. Whilst the considerations of the PAC are a very positive move, the process around committee hearings can be a challenging and complex process for both the elected politicians as members of the committee, as well as the public officials providing the testimony to the committee.

**Recommendation 5 –**

Specialist training be provided to Committee members and senior public officials in relation to parliamentary committee hearings. This training should address issues including the role of committees, the committee process, questioning and providing testimony, transparency and the public record.

Another issue relates to the difficulty faced by public servants who wish to raise concerns about perceived illegal or corrupt behaviour, but are afraid to do so within their Ministry. Whilst the actual reporting of illegal behaviour is one aspect, getting advice on whether such behaviour is in the first place ethical is, indeed, a different question enabling prevention in the first instance.

**Recommendation 6 –**

The Leadership Code Commission advance its role and enhance its capacity to act as an ethics adviser to Ministers, Permanent Secretaries and relevant public officials.

It is obvious that greater efforts are required to investigate and prosecute instances of corruption and other criminal offences identified via the OAG's special audits. The long-term credibility of the OAG and the viability of good governance, government accountability and the rule of law is dependent upon such effective enforcement activities. However, there are critical challenges in doing so relating to operational priorities and workloads, investigative and prosecutorial capacities both in the context of quantity of personnel and the specialist skill-sets required, the existence of effective powers and functions to enable investigation and prosecution, weaknesses with regards to the legal foundations and

definitions of corruption and other related offences, as well as the availability of evidence and documentation.

**Recommendation 7 –**

Initiate a review to identify limitations on ensuring successful investigation and prosecution of corruption and related offences arising from the Special Audits.

There also appear to be some barriers, created by the definition of Official Corruption in the Penal Code, to successful prosecution. This offence is currently stated as:

“Any person who-

(a) being employed in the public service, and being charged with the performance of any duty by virtue of such employment, corruptly asks for, solicits, receives or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him in the discharge of the duties of his office; or

(b) corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure, or attempt to procure, to, upon, or for any person employed in the public service, or to, upon, or for any other person, any property or benefit of any kind on account of any such act or omission on the part of the person so employed,

is guilty of a felony and shall be liable to imprisonment for seven years.<sup>2</sup>”

The main problem seems to be that the provision applies to those ‘...being employed in the public service...’ Thus many of those in public life, for example Ministers, politicians, holders of statutory or public office, police, members of the judiciary, etc. are apparently excluded. Whilst these persons might be caught by the provisions of the Leadership Code, it seems inappropriate that they are not covered by the official corruption provisions.

The Law Reform Commission (LRC) has a current reference to review the Penal Code. There is, undoubtedly, a strong desire among Solomon Islanders for those responsible for ‘bankrupting’ the SI Revenue to be brought to account – particularly those in leadership positions.

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<sup>2</sup> S.91, *Penal Code* (Cap 26)

**Recommendation 8 –**

Urgent consideration be given to a suitable amendment to the Penal Code to ensure that all those with responsibilities of office be covered by the official corruption provisions and that the Chair of the LRC be asked to expedite that part of its current reference which relates to corruption offences.

It is apparent that no single enforcement or accountability body has sole responsibility for investigating and prosecuting identified offences. Rather the key is to get the relevant authorities working co-operatively and in a coordinated manner to advance these issues.

I note that the LCC recently initiated a forum of agencies involved in the oversight of corruption and fraudulent activities within Government. This inaugural meeting acknowledged the potential opportunity for this group and is encouraging.

**Recommendation 9 –**

An inter-agency task force be established incorporating resources from the Participating Police Force Corruption Targeting Team, the Leadership Code Commission, the Office of the Auditor General, the Inland Revenue Division and the Director of Public Prosecutions and others in order to investigate and prosecute identified breaches of the law.

As part of this process, consideration must be given to recouping losses of revenue, although in some cases this will be extremely difficult as proceeds may have been laundered offshore, and may depend upon international legal co-operation in order to recover such funds.

**Recommendation 10 –**

As part of the ministry responses to the Special Audits, Ministries, working in consultation with the inter-agency task force, outline which identified losses are not recoverable and why.

Finally, it should be noted that a review of the Public Finance and Audit Act has been recommended elsewhere, and part of that review should include conferring on the Auditor-General the power to recommend disciplinary action to the Permanent Secretary, and other actions to recover public resources abused and to be able to refer the matter to the Leadership Code Commission for determination or to the Director of Public Prosecutions to take such matters to court.

(c) **Building Demand.**

It is apparent from the analysis and the consultations undertaken, that for government accountability to work effectively, public demand for government accountability must be enhanced as ultimately, this concept is founded upon government being accountable to its citizens. In achieving this outcome, government can still play a very important role in promoting this accountability and in promoting the engagement of the public and civil society.

***Proposed Responses***

Importantly, the audits undertaken by the OAG have been submitted to Parliament thus becoming part of the public record and promoting government transparency. In addition these audits have also been placed on the OAG's internet page, thus increasing their public availability. The Public Accounts Committee has also held public hearings which further promotes transparency and accountability. As this process advances, it will be important to ensure that further documentation and information is also made readily available to the public. To assist this process I will ensure that Ministry responses are contained in my special Reports. In addition, reports of the Public Accounts Committee (PAC) as well as PAC transcripts will be made available via the Internet. Further, when a Special Audit is tabled in Parliament, wherever possible I will issue a media release highlighting the new report.

**Recommendation 11 –**

Sittings and hearing of the PAC be advertised through the media prior to their occurrence, to promote public awareness and public confidence.

**Recommendation 12 –**

When the PAC submits a report to Parliament the PAC should also issue a media release highlighting its new report and the PAC consider holding a public forum, in partnership with Transparency Solomon Islands, to discuss the findings and responses.

Whilst the Government can play an important role in facilitating public engagement in transparency and accountability, there are also mechanisms which can enable civil society to also play a direct role. Freedom of Information (FOI) legislation is critical for enabling public access to information and as a result, can strengthen civil society to play a more proactive role in government transparency and accountability. In its Policy Framework Document, the SI Government has undertaken to introduce a Freedom of Information Bill. FOI requirements also promote improved government record keeping, as it places an additional onus on government to produce information when requested.

**Recommendation 13 –**

A study be conducted to assess the viability and requirements for introducing Freedom of Information legislation into Solomon Islands.

Finally, if all criminal processes fail, a further option available to the community is based upon the creation of a civil remedies regime. Essentially, if parties have suffered damages as a result of corruption, they may pursue a civil action through the courts to seek compensation. Given the difficulties in prosecuting white-collar crime, in a number of countries there has been an increasing reliance on civil remedies as either a complement or as an alternative to criminal prosecution. In contrast to the criminal law, which requires proof beyond reasonable doubt, civil remedies usually only require proof on the balance of probabilities. As civil remedy approaches often deliver substantial damages on a successful action, civil remedies can act as a significant deterrent.

Together with considerable information gathering powers available to various agencies such as Inland Revenue, Customs, etc., a civil remedies regime would enable authorities to pursue ‘money trails’ and recover amounts such as evaded tax, uncollected licence and administration fees, foregone customs revenue, and so on. The Director of Public Prosecutions (DPP) would be an appropriate authority to undertake such a role. This also highlights the need for a DPP Act to establish a framework and to ensure the independence of the Office.

**Recommendation 14 –**

A study be conducted to assess the viability and requirements for introducing a civil remedies regime into the Solomon Islands.

**Recommendation 15 –**

Conduct a civic education program to educate all Solomon Islanders about the accountability processes and the role of elected officials and public officers in that process.